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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/981,233	04/02/1998	Peter Gaiser	2170-109PCT	7882

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EXAMINER

WARDER, GREGORY T

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/981,233

Applicant(s)

GAISER ET AL.

Examiner

Greg T. Warder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 1998.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 5-12 and 18-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: claimed elements “granulating means”, “preliminary product” and “notched rods” are not clearly defined by the disclosure, and this terminology is not given a readily accepted meaning within the art. Specifically, a search of the prior art indicates granulating means could encompass apparatus such as extruders, screens, cutters, centrifuge devices, or fluidized bed dryers. Therefore, it is unclear what “preliminary product” would encompass or what shape is intended by “notched rods”. Applicant is required to provide a clarification of these matters or correlation with art-accepted terminology so that a proper comparison with the prior art can be made. Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

Appropriate correction is required.

Claim Objections

2. Claims 5-12 and 18-22 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits, except to point out rejections based on 35 U.S.C. 112.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 4, 7 and 19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 4 and 19, the specific ranges for the claimed granule diameters are not indicated in the disclosure. The only discussion of desired particle size is a general statement about the ability to vary size to achieve particle conformity and desired application size (see page 5, line 32). Regarding claim 7, no discussion is made of how the already dried sludge is obtained or how it is introduced into the system.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding claims 1, 4, 13 and 19, the phrase "in particular" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

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8. Regarding claims 1, 4, 9, 12, and 19, the phrase "preferably" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

9. Regarding claims 4 and 19, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 4 and 9 recite the broad recitation "1 to 10 mm", and the claim also recites "3 to 7 mm" and "5 mm", which is the narrower statement of the range/limitation.

10. Claim 13 recites the limitation "the partially dewatered sludge" in line 7. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 22 recites the limitation "the expelled exhaust vapor" in the second line. There is insufficient antecedent basis for this limitation in the claim.

12. In view of the above, and taking the claims as best understood by the examiner, the following rejections are made:

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

14. Claims 1, 2, 13-15 and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Rice et al. Rice et al. shows a process and apparatus for drying protein containing sludge in a fluidized bed comprising a drying container 21 which includes a lower receiving chamber 26 for drying gas and a gas permeable support 22 for the fluidized bed; means 30 for feeding the sludge having granulating means 15 with an outlet range adjacent to the peripheral wall of the drying container and above the surface of the fluidized bed; and, means 25 for withdrawing the sludge (see Figures 1-3 and columns 4-8). Rice et al. further describes granules in the shape of notched rods being formed without the addition of dried substances, and the granulating process is combined with pressing (see Figure 1, column 5, lines 11-20, and columns 6 and 7).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rice et al. in view of Yamato. Rice et al. describes all of the elements of claims 3 and 16, except it does not expressly describe introducing the material below the surface of the fluidized bed. Yamato teaches a fluidized bed dryer for sludges and other materials wherein material is introduced in the bottom of the fluid bed, and is conveyed across the surface to reduce agglomeration in the “sticky phase” (see Figure 9 and column 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process and apparatus of Rice et al. to use the fluidized bed dryer of Yamato. This would be motivated by the dryers improved ability to dry particles which have sticky or adhesive characteristics such as those dried without mixing as described in Rice et al.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to show the state of the art in general with respect to drying of sludges:

Gurol and Rumocki show process and apparatus for granulating and drying sludge without mixing back dried particles into the granulator.

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Florin et al. and Hovmand et al. show process for drying sludge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg T. Warder whose telephone number is (703) 305-0537. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on (703) 308-1935. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


GTW

December 13, 2001


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